

**ENGINEERING STATEMENT IN
SUPPORT OF COMMENTS**

MM DOCKET 01-55

KAFT-DT - FAYETTEVILLE, AR

**Pharis Broadcasting, Inc.
Winslow, AR**

April 13, 2001

**Prepared for: Mr. Bill Pharis
Pharis Broadcasting, Inc.
P.O. Box 573
Fort Smith, AR 72902**

CARL E. SMITH CONSULTING ENGINEERS

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

ORIGINAL

In the Matter of)
)
 Amendment of Section 73.622(b))
 Table of Allotments)
 Digital Television Broadcast Stations)
 (Fayetteville, Arkansas))

MM Docket No. 01-55,
 RM-10034

RECEIVED

APR 16 2001

To: Chief, Video Services Division

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

COMMENTS

Pharis Broadcasting, Inc. ("Pharis"), licensee of Class A station K09XE, Winslow, Arkansas, hereby submits its comments in connection with the above-referenced proposal filed by Arkansas Educational Television Commission ("AETC"), licensee of noncommercial station KAFT(TV), Fayetteville, Arkansas. KAFT(TV) is authorized to operate on NTSC Channel 13, with a DTV allotment on Channel 45. By this proceeding, AETC is requesting substitution of DTV Channel 9 in place of DTV Channel 45. However, under the Commission's rules, this substitution would cause unauthorized interference to K09XE, which must be afforded protection. Therefore, AETC's proposal is invalid and must be promptly dismissed.

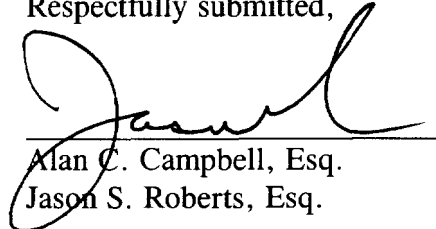
When the FCC adopted the Class A Rules, it did so to guarantee a future for certain low power television stations that provided an integral service to the public. One of the protections afforded to Class A stations was preservation of the station's service area from the date the Commission receives an acceptable certification of eligibility for Class A status. *In the Matter of Establishment of a Class A Television Station*, 20 CR 154, 161 (2000) ("Class A Report and Order"). Therefore, any rulemaking and/or applications for full-power analog or digital television

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stations filed after the eligibility date must provide protection to Class A service areas pursuant to the technical criteria set forth in Sections 73.613 (analog) and 73.623(c)(5) (digital) of the Commission's Rules. 47 C.F.R. §§ 73.613, 73.623(c)(5).

Under the Commission's rules, the service area of K09XE received contour protection beginning December 29, 1999, the date upon which Pharis filed the Class A certification of eligibility. *Class A Report and Order* at 161. As shown in the Engineering Exhibit attached hereto, AETC's proposal to reallocate its digital operations to DTV Channel 9 would cause interference to K09XE's licensed Class A operations, in violation of the Commission's Rules. Therefore, AETC's proposal is deficient, violates the Commission's rules, and must be dismissed.

Respectfully submitted,



Alan C. Campbell, Esq.
Jason S. Roberts, Esq.

Counsel for Pharis Broadcasting, Inc.


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Washington, DC 20036-3101
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April 16, 2001

CERTIFICATE OF SERVICE

I, Donna Brown, do hereby certify that I have, this 16th day of April, 2001, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Coments of Pharis Broadcasting, Inc." to the following:

Todd D. Gray, Esq.
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20036
(Counsel for Arkansas Educational Television Commission)


Donna Brown

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Fig. 1.0 - Detailed Allocation Study K09XE (Lic.)/KAFT-DT (RM)

ENGINEERING AFFIDAVIT

State of Ohio)
) ss:
County of Summit)

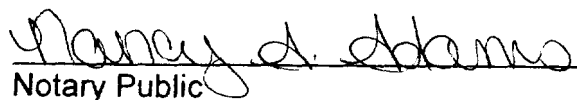
Roy P. Stype, III, being duly sworn, deposes and states that he is a graduate Electrical Engineer, a qualified and experienced Communications Consulting Engineer whose works are a matter of record with the Federal Communications Commission and that he is a member of the Firm of "Carl E. Smith Consulting Engineers" located at 2324 North Cleveland-Massillon Road in the Township of Bath, County of Summit, State of Ohio, and that the Firm has been retained by Pharis Broadcasting, Inc. to prepare the attached "Engineering Statement In Support Of Comments - MM Docket 01-55 - KAFT-DT - Fayetteville, AR."

The deponent states that the Exhibit was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.



Roy P. Stype, III

Subscribed and sworn to before me on **April 13, 2001**.



Notary Public

/SEAL/

NANCY A. ADAMS, Notary Public
Residence - Cuyahoga County
State Wide Jurisdiction, Ohio
My Commission Expires Sept. 5, 2006

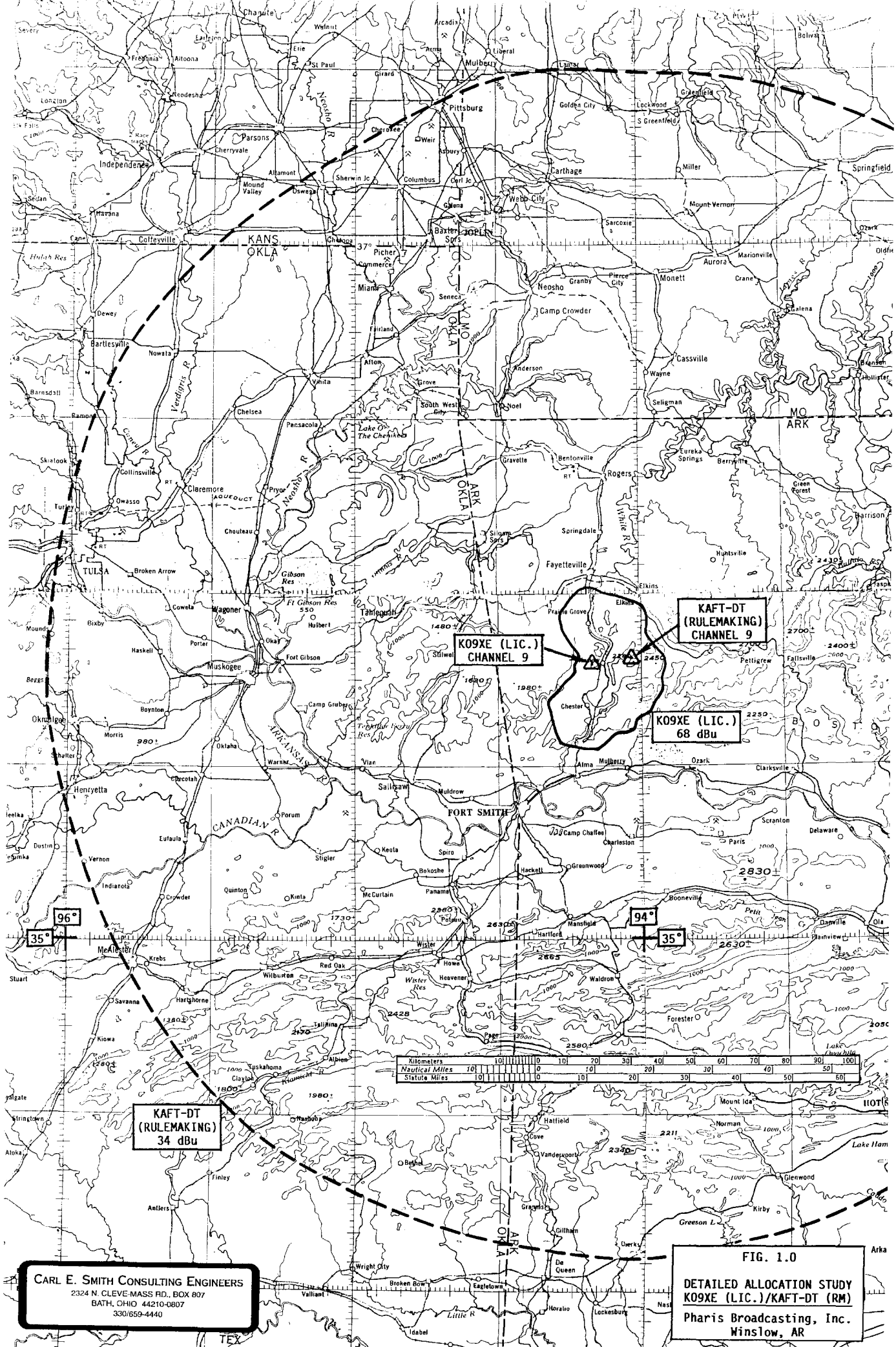
ENGINEERING STATEMENT

This engineering statement is prepared on behalf of Pharis Broadcasting, Inc., licensee of Class A TV Station K09XE - Winslow, Arkansas. K09XE operates on Channel 9 with a maximum effective radiated power of 3 kilowatts. The Notice of Proposed Rulemaking in MM Docket 01-55 has proposed to substitute DTV Channel 9 for DTV Channel 45 in Fayetteville, Arkansas for use by KAFT-DT. This engineering statement is prepared in support of comments in this DTV rulemaking proceeding and documents that the proposed Channel 9 DTV facilities fail to provide the required protection to K09XE.

Section 73.623(c)(5) of the FCC Rules outlines the applicable protection criteria for a Class A TV station from a DTV broadcast station. In this situation, this rule section prohibits any overlap between the proposed KAFT-DT 34 dBu F(50,10) contour and the K09XE 68 dBu F(50,50) contour. Figure 1.0 is a map exhibit depicting the appropriate contours for K09XE and the proposed KAFT-DT Channel 9 facilities. As shown in this figure, not only will the proposed KAFT-DT 34 dBu interfering contour totally engulf the K09XE 68 dbu protected contour and large areas surrounding this protected contour, but the proposed KAFT-DT transmitter site is actually located **within** the protected contour of K09XE. As a result, the proposed KAFT-DT Channel 9 operating facilities do not even come anywhere close to providing the required protection to K09XE. Furthermore, there is also no way to modify the proposed facilities to permit KAFT-DT to operate on Channel 9 while also providing the required protection to K09XE, since it is absolutely impossible to provide the required protection to a co-channel station from any location within, or in close proximity to its protected contour, even

using alternate interference prediction methodology such as that outlined in FCC OET Bulletin 69.

Based on the above information, it is obvious that the proposed KAFT-DT facilities fail to provide the required protection to K09XE. While it is doubtful that a rulemaking petition proposing a change in DTV channel would be considered to be a "maximization application" for the purposes of determining whether it is necessary for the petitioner to protect Class A TV stations, it is not necessary to resolve such a question in this proceeding, since a review of FCC records shows that the licensee of KAFT did not file a notice of intent to maximize their DTV facilities by the December 31, 1999 deadline. Furthermore, the KAFT-DT rulemaking petition was not filed with the FCC until May 9, 2000. Thus, even if it would be considered to be a "maximization application" and KAFT had filed a notice of intent to maximize by the December 31, 1999 deadline, this rulemaking petition was filed after the May 1, 2000 deadline for such stations to file maximization applications without having to provide protection to Class A stations. Accordingly, since it is totally unambiguous that the KAFT-DT proposal is obligated to protect Class A TV stations, such as K09XE, and just as clear that the proposed KAFT-DT facilities fail to provide the required protection to the licensed operation of K09XE, the KAFT-DT Channel 9 DTV rulemaking proposal must be denied.



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FIG. 1.0
DETAILED ALLOCATION STUDY
K09XE (LIC.)/KAFT-DT (RM)
Pharis Broadcasting, Inc.
Winslow, AR